



Republican Policy Committee

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President Threatens To Veto Bipartisan Bill

Product Liability Reform: How the Caps on Punitive Damages Will Work — and Help

"The bill being considered is a modest reform, carefully targeted to address a specific problem. It allows plenty of room for large recoveries. And it should not be rejected out of hand by the White House."

Washington Post editorial, April 6, 1996

Late last month the Senate and the House passed the conference report on H.R. 956, a bill to bring some common sense to product liability lawsuits. **Regrettably, President Clinton is threatening to veto the bill.** If allowed to become law, this important reform act will:

- Protect small businesses from exorbitant legal fees and "harassment" suits;
- Strengthen U.S. competitiveness with foreign businesses and products, thus saving and creating American jobs;
- Create an incentive to increase expenditures on research and development, thus improving product safety, innovation, and availability; and
- Decrease costs to the consumer.

Compensatory Damages and Punitive Damages

There has been some confusion about the way this Act will work, particularly with respect to its limits on punitive damages. Therefore, a brief review seems in order:

The Act applies only to product liability cases, that is, to those cases where it is alleged that a defective product injured a person or damaged property. There are two types of awards in such cases, compensatory damages and punitive damages.

Compensatory damages compensate the victim for actual losses that have been suffered, and those losses are of two types. Economic losses include such things as medical expenses, lost wages, lost earning capacity, lost business opportunities, costs of special medical equipment or personnel, and so on. Noneconomic losses include pain and suffering, emotional distress, injury to reputation, and so on.

The Act does *not* limit compensatory damages, but it does link punitive damages to compensatory damages, as explained below.

The second type of award is punitive (or exemplary) damages. Punitive damages are intended to *punish* the maker of the defective product that caused the harm. The Act does cap punitive damages, as explained below. The cap requires that punitive damages have some reasonable relationship to the actual economic and noneconomic damages. The cap is expected to provide some long-overdue relief for individuals and small businesses.

The Caps on Punitive Damages

The Act distinguishes between most individuals and small businesses on the one hand and richer individuals and larger businesses on the other:

For individuals whose net worth does not exceed \$500,000 and for small businesses (those employing fewer than 25 persons full-time), awards for punitive damages will be capped at \$250,000 or two times the compensatory damages, whichever is the *lesser* amount.

For all other defendants, punitive damages are capped at \$250,000 or two times the compensatory damages, whichever is the *greater* amount. There is *no cap on damages for egregious conduct*. A judge may award additional damages when he or she believes there has been egregious conduct.

Thus, the Act does not limit compensatory awards at all, and it allows large, even multimillion dollar, punitive damages awards when the economic harm and noneconomic harm are correspondingly great. The Act is *not* intended to deny fair awards to those who have been injured, but it is intended to prevent huge awards for relatively minor harm.

An Important Reform With Bipartisan Support

H.R. 956 — if signed into law — will increase the competitiveness of American companies. It will help lower prices and increase spending on research and development. Money now earmarked for legal fees and liability claims will be used to make products safer, more efficient, and more available. And, those savings will create jobs — for workers, we mean, not trial lawyers.

The product liability reform act passed Congress with bipartisan support. Senator Jay Rockefeller, Democrat of West Virginia, says the Act is “a serious bipartisan effort that would restore common sense to the American legal system.” He warned the White House of its “shortsighted political view” of this important reform.

At the moment, though, it looks like shortsightedness is going to defeat common sense.

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